

DRAFT



CITY OF GAITHERSBURG
MINUTES OF A SPECIAL CITY COUNCIL MEETING
MONDAY, SEPTEMBER 10, 2007

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Edens, Marraffa, Schlichting and Sesma. Council Member Absent: Alster. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Planning and Code Administration Director Ossont, Community Planning Director Schwarz, Planners Marsh and Patula, Capital Projects/Facilities Director Geiling, Primary Counselor McCreary, Evening Counselor Johnson, City Attorney Borten and Executive Assistant Stokes. Planning Commission present for joint public hearings: Bauer, Hopkins, Kaufman, and Levy.

Mayor Katz announced that the regular meeting of September 4, 2007 had to be rescheduled due to a power outage. Agenda items from said regular meeting has been rescheduled for tonight's special meeting.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Peter Turley and Grant Norwwod, students from Northwest High School.

II. INVOCATION

In lieu of an invocation, Mayor Katz called for a moment of silence.

III. APPROVAL OF MINUTES

Motion was made by Council Member Alster, seconded by Council Member Edens, that the minutes of the Mayor and Council meeting held August 6, 2007, be approved.

Vote: 3-0-1 (Abstained: Sesma)

Motion was made by Council Member Marraffa, seconded by Council Member Sesma, that the minutes of the Mayor and Council meeting held August 20, 2007, be approved.

Vote: 3-0-1 (Abstained: Edens)

Motion was made by Council Member Sesma, seconded by Council Member Edens, that the minutes of the Mayor and Council meeting held September 4, 2007, be approved.

Vote: 3-0-1 (Abstained: Alster)

IV. CONSENT ITEM**Resolution of the Mayor and Council Authorizing the City Manager to Enter into a Contract to Purchase One (1) 2008 Utility Body Truck with Lift Gate**

This resolution authorized the City Manager to enter a contract to purchase the above truck from Plaza Ford/Motors Fleet, Inc., 900 Hwy 35, Ocean, New Jersey 07712, in the amount of Thirty-Nine Thousand Ninety-Eight Dollars (\$39,098); said funds to be expended from the Operating Budget.

Motion was made by Council Member Edens, seconded by, Council Member Marraffa, that Consent Agenda (Resolution No. R-93-07), be approved.

Vote: 4-0

V. APPOINTMENTS**1. Resolution Establishing an Ad Hoc Committee for Skate Components within City Parks and Confirming Appointments**

This resolution establishes the above Committee and confirms the following appointments: Jeremy Dempsey, 908 Beacon Square Court, #416, 20878; Dan, Annabelle, and Issac (youth representative) Gerendasy, 20878; Beth Kennington, 3 Cullinan Drive, 20878; Connie and Quinn (youth representative) McGuire, 211 Lake Street, 20878; Sharon Nystrom, 122 Chestertown Street, 20878; Carlos Osorio, 306 Beckwith Street, 20878; Bettina Thompson, 619 Pheasant Street, 20878; Lori and Peter (youth representative) Turley, 5 Pavilion Drive, 20878; and Clark Wagner, 314 Inspiration Lane, 20878. The Committee was charged with researching regional and national trends in skate parks, evaluating current facilities, recommending locations and the size, scope and components of possible skate facilities with City parks evaluating safety and supervision issues, and making recommendations to the Mayor and City Council.

Motion was made by Council Member Alster, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL ESTABLISHING A CITY OF GAITHERSBURG AD HOC COMMITTEE FOR SKATE COMPONENTS WITHIN CITY PARKS AND CONFIRMING APPOINTMENTS MADE BY THE MAYOR THERETO (Resolution No. R-94-07), be approved.

Vote: 4-0

2. Resolution Confirming Appointments and Reappointments

This resolution confirms the following: **Arts and Monuments Funding Corporation**, Sigrid McCutcheon (appointment), 142 Lake Street, three-year term, and Mary Fehig (alternate-appointment), 724 Chestertown Street, 20878, two-year term; **Beautification Committee**, Matt Powell (appointment), 7 James Street, 20877, two-year term; **Market Square Advisory Committee**, Sigrid McCutcheon (appointment), 142 Lake Street, 20878, two-year term; **Board of Appeals**, David Friend (alternate-reappointment), 111 Holmard Street, 20878, Victor Macdonald (reappointment), 409 Ridgepoint Place, 20878, and Gary Trojak (reappointment), 4 Keystone Court, 20878, three-year terms; **Communications Committee**, Alex Stavitsky-Zeineddin (reappointment), 112 Kent Square Road, 20878, two-year term; **Education Committee**, Marion Perry (reappointment), 344 Tschiffely Square Road, 20878, two-year term; **Environmental Affairs Committee**, Ken Gemmell (reappointment), 19733 Drop Forge Lane, 20879, two-year term, **Personnel Review Board**, Bill Snyder (reappointment), 114 Fox Trail Terrace, 20878, three-year term; **Planning Commission**, John Bauer (reappointments), 944 Featherstone Street, 20878, five-year term; and the **Police Chief's Advisory Council**, Brett Cosor (reappointment), 306 Alfandre Street, 20878, two-year term.

Motion was made by Council Member Edens, seconded by, Council Member Alster, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING APPOINTMENTS AND REAPPOINTMENTS TO THE ARTS AND MONUMENTS FUNDING CORPORATION, BEAUTIFICATION COMMITTEE, BOARD OF APPEALS, COMMUNICATIONS COMMITTEE, EDUCATION COMMITTEE, ENVIRONMENTAL AFFAIRS, MARKET SQUARE ADVISORY COMMITTEE, PERSONNEL REVIEW BOARD, PLANNING COMMISSION, AND POLICE CHIEF'S ADVISORY COUNCIL (Resolution No. R-95-07), be approved.

Vote: 4-0

VI. OATH OF OFFICE

Mayor Katz administered the Oath of Office to John Bauer to serve on the City of Gaithersburg Planning Commission. Mr. Bauer was reappointed to serve a five-year term.

Mayor Katz administered the Oath of Office to David Friend (alternate) to serve on the City of Gaithersburg Board of Appeals. Mr. Friend was reappointed to serve a three-year term.

VII. PRESENTATIONS

1. **Proclamations**

Mayor Katz designated September, 2007, as “**National Alcohol and Drug Addiction Recovery Month**” in the City of Gaithersburg and presented the Proclamation to Primary Counselor McCreary and resident William Alford. The theme this year is, “Join the Voices for Recovery: Saving Lives, Saving Dollars,” which highlights the positive impact of investing in treatment and recovery for individuals families and the community, promotes the benefits of treatment and recovery, and highlights the contributions of treatment providers.

Mayor Katz designated September 24, 2007, as “**Family Day – A Day to Eat Dinner With Your Children**” in the City of Gaithersburg and presented the Proclamation to Evening Counselor Johnson and Shadell Canty (graduate of the Wells/Robertson House). The City encourages employees and residents to utilize said date to reinforce positive family dynamics with their children. The celebration of Family Day will continue at Bohrer Park during the Wells/Robertson House 3rd Annual Recovery Picnic on September 29, 2007. Shannon Matthews, Executive Director of Victorious Women/Extraordinary Men Outreach Services, will provide remarks on the importance of family dining and substance abuse prevention.

2. **City-Wide Citizen Survey**

Assistant City Manager Tomasello presented a brief PowerPoint on the proposed citizen survey. He gave background on the survey stating that Strategic Direction #10, Communication, directs the City to survey the citizens from time to time. Funds were authorized in the City's FY 2008 budget and National Research Center, Inc. (NRC) was retain to provide the service in conjunction with the International City/County Management Association (ICMA). NRC has been conducting surveys for over 10 years and more than 400 local governments are included in the current database. The City's results will be compared to norms from the database to put ratings in perspective. He explained that the purpose of the survey is to assess resident satisfaction with municipal services, create benchmarks of service quality ratings to gauge progress when measured against future surveys, identify community needs, and help develop the annual City's Strategic Plan. An example of a survey and its content was shown to the Mayor and City Council. He reviewed the process and timeline stating that 1,200 addresses are selected randomly from zip codes and carrier routes within the City. The selected households will receive pre-notification cards in approximately two weeks before receiving the survey. Surveys are delivered to the selected households and re-delivered to encourage participation. Spanish language option will

be available upon request. Following the 30-day period that the residents has to respond, the data is collected, processed and a final report is prepared and delivered to the City by NRC. The survey process is scheduled to begin in the first week of October and be completed by calendar year-end. Staff anticipates presenting the report in detail at the Mayor and City Council Annual Retreat in January 2008. He further stated that the surveys are sent randomly and cannot be requested. In addition, there is the possibility of optional policy questions, up to three customized questions that may be included in the survey. The questions would apply to unique characteristics or policy issues of individual communities at a specific point in time. Customized questions will have to be measured on a fixed scale showing support or opposition. In closing, he stated that staff has been thinking of potential questions. It was suggested that the Mayor and City Council present questions for consideration by the next Mayor and City Council meeting scheduled for September 17, 2007.

VIII. COURTESY REVIEW

SDP-07-002, Proposal to Amend a Schematic Development Plan (SDP), Known as Washingtonian South Seven, Located in the Washingtonian Center Subdivision in Gaithersburg, Maryland. The Approved Plan has Two Office Buildings (Eight Stories and Six Stories) and Contains 350,000 Square Feet of Office Space and a Four Level Parking Garage. The Amendment Proposes Two Eight-Story Office Buildings Consisting of 400,000 Square Feet and a Five-Level Parking Garage. The Property is 322,066 Square Feet (7.39 acres) of Land. The Parcel is Located at 9711 Washingtonian Boulevard, Washingtonian Center, Parcel K, South of the Springhill Suites Hotel and North of Negola's Ark Veterinary Hospital and is in the Mixed Use Development (MXD) Zone

Community Planning Director Schwarz stated Section 24-198(c)(3)c. of the City Code requires the Mayor and City Council, in the instance when certain changes other than use are made to a SDP, to hold a courtesy review of the application. In 1998, the Mayor and City Council and Planning Commission approved eight and six story office buildings and parking garage and also a hotel. To date, the hotel has been built which was part of the original SDP. The total square footage for the property was 350,000, but originally, the annexation in 1991 allowed for 400,000 square feet and a four to ten story building and a three to five level parking garage. She stated that staff has review several plans for the property. The proposed amendment is requesting the modification to a building to be eight stories and allow the parking garage to be five stories. The Mayor and City Council has the following two options: 1) direct the Planning Commission to handle the amendment at the site plan or 2) direct the Planning Commission to have a public hearing and make a recommendation to the Mayor and City Council. She stated that an eight story office building plan was approved by the Planning Commission and the proposed amendment would allow the other office building to mirror it. The buildings and parking garage will be constructed in two phases. In addition, the architecture will be LEED Certified. Staff is recommending that the Mayor and City Council direct the Planning Commission to handle the proposed amendment as a site plan because the footprints are not changing from what was approved in 1998.

The Mayor and several City Council members expressed concerned with the phasing timeline for the build out of the buildings and parking garage and the architecture of such visible structures.

Motion was made by Council Member Marraffa, seconded by, Council Member Alster, directing the Planning Commission to proceed as a final site plan approval (Option 1).

Vote: 4-0

IX. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Mayor Katz announced that the City received the resignation of City Attorney Cathy Borten. He recognized her importance and guidance during difficult issues. He suggested not appointing a new attorney until after City Elections in November, but directed City Manager Humpton to advertise the position for 45 days which will be followed by an interview process with the newly elected council members.

Council Member Sesma

1. Thanked the Kentland Foundation and staff for organizing the 5K race held September 1, 2007.
2. Expressed appreciation and thanked City Attorney Borten for her services.
3. Thanked staff for a well organized and enjoyable Labor Day Parade.
4. Announced the following community events: Montgomery County Housing Fair and Financial Fitness Day on September 15, 10 a.m. – 3 p.m. at the Activity Center at Bohrer Park, School Community United and Partnership Conference, University of Maryland Shady Grove Campus, Great Recognition Programs deadline is Friday, September 21, 2007 for the CC! Foundation for Life Essay Contest, Adult Heroes Essay Contest, and Poster Contest, the Dr. Martin Luther King, Jr. Literary Arts Contest due in December. He announced that CHARACTER COUNTS! Week is October 21 – 27, 2007, Education Grant Workshop on Tuesday, October 16, 2007, and a CC! Reception will be Wednesday, September 24, 2007. More details available on the City's website or contact the City's Human Services Division.

Council Member Marraffa

1. Announced vacancies on the City's Boards, Commissions and Committees.
2. He commended Parks, Recreation, and Culture Director McGleish and staff for the 5K race held. He reported that Council Members Schlichting and Sesma did participate in the run and publicly pledged that he will run next year.
3. Kudos to those involved in the City's Labor Day Parade.
4. Wished City Attorney Borten well on her future endeavors.
5. Announced that he and Mayor Katz attended the MML Board of Directors meeting in Chesapeake, Maryland.
6. Reported that cub scouts are having a fundraiser and encouraged residents to offer their support.

Council Vice President Alster

1. Stated he benefited and appreciated the advice and guidance received from City Attorney Borten and thanked her.
2. Thanked staff for their efforts during the events scheduled for September.
3. Reported that COMCAST has changed their policy for resolving differences with subscribers. He encouraged residents to review information received in the mail and take action.

Council Member Edens

1. Echoed thanks to City Attorney Borten for her services.
2. Announced Celebrate Gaithersburg in Olde Towne scheduled for Sunday, September 16, 2007. The 26th annual event planned with live entertainment, music, arts, food, and fun. The City's Cable TV staff proposed a commercial for the event which was shown.

Mayor Katz

1. Requested the following motion:

Motion was made by Council Member Alster, seconded by Council Member Sesma, to conduct a closed executive session on Monday, September 10, 2007, immediately following the scheduled special meeting, pursuant to Section 10-508(a)(1)(i) of the Stated Government Article of the Annotated Code of Maryland, to discuss the performance evaluation of an appointee. The topic to be discussed is the annual performance evaluation of the City Manager.

Vote: 5-0

2. Announced vacancies still available on the City's Skate Component Committee.
3. Stated the final workshop for the upcoming Kentlands Boulevard Commercial District Charrette will be held on Tuesday, September 11, 2007, at 255 Kentlands Boulevard in the Kentlands Square Shopping Center. The Charrette will be held at the same location on October 4 – 9, session times will vary.
4. Announced the following meeting schedule:
 - regular meeting of the Mayor and City Council on Monday, September 17, 2007.
 - work session on Monday, September 24, 2007, to receive a presentation from the Friends of Wells/Robertson House and discuss the proposed Olde Towne Clock Tower Plan.

X. FROM THE CITY MANAGER

1. On behalf of City staff, City Manager Humpton thanked City Attorney Borten for her service. He stated that she will continue working on various projects that she is already involved in.
2. Reported that the recreation staff received a compliment from a resident for the City Summer Camps, specifically special assistance given to a child in need.
3. Work Session to discuss netting at Kelley Park will be rescheduled for October.

XI. PUBLIC HEARINGS

1. **JOINT - T- 381, An Ordinance to Amend Chapter 24 of the City Code (City Zoning Ordinance), Article III, Division 22, §24-160G.5, Entitled "Waiver of Development Standards" so as to Amend §24-160G.5(a) so that the City Council May, by Resolution, Waive the Building and Structure Height Requirements in Any District in the Corridor Development Zone (CD Zone) as Follows: for a Commercial District to Allow a Height Not to Exceed Five (5) Stories, or Sixty (60) Feet**

Planning and Code Administration Director Ossont stated that the joint public hearing was duly advertised on August 15 and 22, 2007 in the *Gaithersburg Gazette*, with 13 exhibits in the record file. Currently, the City Council can grant height waivers in the Employment and Residential Districts of the Corridor Development (CD) Zone. The proposed text amendment would allow height waivers in the Commercial District to allow one additional story, not to exceed five stories or sixty feet. The waiver would be based on findings which will be determined on a case by case basis through a resolution of the Mayor and City Council. Should the proposed text amendment be approved, applicants would still be subject to the applicable site development plan requirements in the CD Zone. He stated that at the request of Council Member Edens, staff researched the basis for the three, four, and five story height limits in the CD Zone. From staff's perspective going back to 1998, 1999, the Residential District height limit was capped at three and was compatible because so many residential neighborhoods backed up to properties. In the Employment District and Commercial District which is where the text amendment is focused, there was not a lot of information about compatibility because so much of it was mixed uses. Staff also suspected building codes had probably changed right about that time. Currently, there are a lot of mixed use type of construction and higher heights are permitted by certain types of construction.

1. *Cathy Drzyzgula, 16 Walker Avenue*, asked the Mayor and Council to keep in mind that there are three districts in the CD Zone and each of them had already gone through this process. Suggested that waivers be granted only for exceptional projects and that something be offered in return. Expressed concern with new projects asking for higher heights.
2. *Elizabeth Witzgall, 20 Walker Avenue*, representing the Gaithersburg Historical Association, expressed concern with the proposed text amendment. She stated that there are a lot of historic structures along that corridor and asked the City to be careful when considering change to preserve the historic landmarks. She also expressed concern with the proposed height waiver of 60 feet becoming a distraction from the ambiance that the City is trying to create within the historic districts. She asked for either explicit exemption from this waiver process for areas around historic landmarks or an explicit explanation of the criteria for compatibility.
3. *Judy Christensen, 6 Walker Avenue*, speaking as a private citizen stated it is difficult to build flexibility and design innovations into the planning process. Asked that criteria be clear for height waiver requests in order to protect the better parts of the City.

There were no other speakers at the hearing.

Motion was made by Commissioner Levy, seconded by, Commissioner Kaufman, that the Planning Commission record on the T-381, be closed on September 26, 2007, 5 p.m.

Vote: 4-0

Motion was made by Council Member Edens, seconded by, Council Member Sesma, that the Mayor and City Council record on the T-381, be closed on October 8, 2007, 5 p.m.

Vote: 4-0

2. **JOINT - T-382, An Ordinance to Amend Chapter 24 of the City Code (City Zoning Ordinance), Article III, "Regulations Applicable to particular Zones," Division 15, "I-3, Industrial and Office Park," §24-143, "Uses Permitted by Right," to Add New §§ 24-143(12) and 24-143(13), so as to allow Full Service and Limited Service Hotels as Permitted Uses in the I-3 Zone if Certain Conditions are Met**

Planning and Code Administration Director Ossont stated that the above joint public hearing was duly advertised on August 15 and 22, and September 7, 2007, in the *Gaithersburg Gazette*. At the present time there are 13 exhibits in the record file. He stated that staff has been working with the Monument Realty Group on an amendment to their approved office park plan which is located north of the IBM/Lockheed Martin campuses on North Frederick Avenue. The proposed amendment includes a hotel which is currently not a permitted use in the I-3 Zone. Staff believes that there is merit in expanding permitted uses of the I-3 Zone to allow certain types within the Frederick Avenue Corridor Employment District. He stated that the three elements to the text amendment is to 1) establish two new permitted uses in the I-3 Zone. Full service hotel and as well as limited service hotel. Extended Stays and motels would remain not permitted uses; 2) property must be located in the Employment District as designated in the City's Master Plan; and 3) the parcel must be part of a larger complex in which the hotel cannot exceed 20 percent of the total square footage of the office park.

Kurt Salpini, Senior Vice President, Monument Realty and the owner of the Monument Corporate Center stated that the first building was completed at the Monument Corporate Center campus in August. The approved plan includes three office buildings totaling 750,00 square feet. He stated that they are prepared to commence work on the second building pending market demand. He further stated that a hotel adds a mixed use nature to the campus and will increase its attractiveness to corporate uses without compromising quality. He stated that it would give the project balance and assist in the leasing efforts. The limited service concept would not offer room service or provide kitchens in the rooms, but will have some meeting space and a food service area that may or may not be open to the public. By emphasizing quality at a fair price, select service hotels are able to meet the growing need for short term business and leisure travel. He stated that a quality limited service hotel would compliment their class A, LEED silver rated office building and offer on site lodging for both employees and contractors to IBM and Lockheed Martin as well as future tenants at Monument Corporate Center.

There were no speakers at the hearing.

Motion was made by Commissioner Kaufman, seconded by, Commissioner Levy, that the Planning Commission record on the T-382, be closed on September 26, 2007, 5 p.m.

Vote: 4-0

Motion was made by Council Member Sesma, seconded by, Council Member Edens, that the Mayor and City Council record on the T-382, be closed on October 8, 2007, 5 p.m.

Vote: 4-0

3. JOINT - Z-306, Amendment to the Sketch Plan for the Humane Society (HSUS) Property, Requesting up to 300,000 Square Feet of Office Development in Structures Between 6 and 12 Stories and up to 250-300 Residential Units. The Subject Property Contains 10.5 Acres of Land and is Located East of I-270, South of the Existing Terminus of Professional Drive, and West of MD Route 355, North Frederick Avenue, in the Mixed Use Development (MXD) Zone

Planner Marsh stated that the above joint public hearing was advertised in the August 15 and 22, 2007 issues of the *Gaithersburg Gazette*. The subject property contains 10.5 acres of land located east of I-270, south of the existing terminus of Professional Drive, and west of MD Route 355, North Frederick Avenue, in the Mixed Use Development (MXD) Zone. She stated that HSUS is requesting that all of the proposed density be phased so that no development would occur on this site until the Watkins Mill Road Interchange is under construction. Planner Marsh gave background on the site stating that the property was rezoned to MXD as part of a comprehensive rezoning after the 1997 Master Plan; however, land was not approved during this rezoning process. The existing 67,800 square foot two-story building at the site is the national headquarters of the HSUS. Staff, in cooperation with Montgomery County and the State Highway Administration (SHA), have been in discussion with HSUS in an effort to secure the dedication of the interchange right-of-way located on their property and believes that the densities and uses proposed on the sketch plan are harmonious with the recently approved Casey West and Casey East projects.

Tom Wade, Chief Finance Officer, Humane Society of the United States stated that 700 Professional Drive has been headquarters for the past 15 years. The company has over 400 employees and is now considering their expansion options. The property when purchased was zoned Industrial. Since the company began looking at development for expansion opportunities, they realized that the property was in the MXD Zone and have been working with City staff to come up with a plan to address the new zoning requirements, the Watkins Mill Interchange, and the surrounding developments.

Bob Dalrymple, Linowes and Blocher, LLP, on behalf of HSUS reviewed the proposed eleven binding elements for both the City and the applicant as part of the sketch plan, moving forward to the SDP phase: 1) Up to 300,000 square foot of office with structures of 6 to 12 stories in height; 2) Up to 250 to 300 residential units in structure 6 to 12 stories in height; 3) Parking will be provided in a combination of above and below grade structures, plus surface parking. A minimum of 90 percent of parking exclusively for office and residential use must be in structures; 4) Storm water management quantity requirements will be met with a combination of surface and below grade facilities (surface facilities shall be wet ponds within the watershed either on or off site. Water quantity facilities could be provided using below grade on surface facilities; 5) Improvements will be qualified for LEED Certification; 6) A wildlife management plan shall be prepared at the time of Schematic Development Plan (SDP); 7) A full traffic impact study, along with project phasing, will be approved at the time of SDP with the study assuming that the construction of the interchange; 8) A forest conservation plan to be submitted and approved at time of SDP; 9) Professional Drive is to be extended through the property with final alignment to be determined at SDP, Professional Drive right-of-way, as dedicated on Plat #13885, may be abandoned; 10) No development activity will begin until construction of Watkins Mill Road/I-270 interchange has commenced; and the final condition 11) Areas for Watkins Mill Road/I-270 is reserved by Sketch Plan with dedication upon final design of the Interchange.

Alfred Blumberg, Sight Solutions, reviewed the concept plan. He stated that the concept is to have a mix of uses on the site such as an office type building mixed with residential.

In response to questions, Mr. Dalrymple stated that HSUS has been aware of the Casey East and Casey West projects and has met with the developer and City staff on several occasions to ensure compatibility and integration with the surrounding properties.

Cathy Drzyzgula, 16 Walker Avenue, expressed concern and questioned how the plan will work with the adequate public facilities ordinance (APFO), because no timeframe has been established and school capacity issues. Assistant City Manager Felton responded that the APFO will have to be observed and the applicant will have to comply with whatever is currently in effect for the schools test.

There were no other speakers at the hearing.

Motion was made by Commissioner Hopkins, seconded by, Commissioner Kaufman, that the Planning Commission record on the Z-306, be closed on September 26, 2007, 5 p.m.

Vote: 4-0

Motion was made by Council Member Edens, seconded by, Council Member Sesma, that the Mayor and City Council record on the Z-306, be closed on October 8, 2007, 5 p.m.

Vote: 4-0

XII. ORDINANCES, RESOLUTIONS, AND REGULATIONS

1. Introduction of an Ordinance to Amend and Adopt the City Budget

Finance and Administration Director Belton introduced the above ordinance amending the City's adopted budget ending FY'07. The proposed ordinance amends the City Budget, which provides a complete financial plan, including amended revenues and amended expenditures for the Fiscal Year 2006-2007. The amendment accounts for the transfer of funds in the Group Insurance Reserve Fund Balance to the Retiree Health and Welfare Benefit Trust Fund (the "Fund"). The Fund was approved by Resolution Number R-36-07 of the Mayor and City Council on May 7, 2007, in order to comply with the requirements of GASB 45. He stated that the City's external auditors recommended the proposed ordinance to accurately reflect the transfer of funds from the General Operating Fund to the Retiree Health and Welfare Benefit Trust Fund (the "Fund"). The City Charter, Section 45 authorizes the council, at any time, by ordinance, to amend the budget to allow expenditure of excess revenues. These amounts have previously been recognized as Group Insurance Reserve Fund Balance for Retirees. Mr. Belton stated that it will be a one time budget adjustment as the FY'08 budget accounts for the transfer. Staff was directed to advertise the proposed ordinance for a public hearing on October 1, 2007.

Motion was made by Council Member Sesma, seconded by, Council Member Marraffa, that AN ORDINANCE TO AMEND AND ADOPT THE CITY BUDGET FOR THE FISCAL YEAR JULY 1, 2006, THROUGH JUNE 30, 2007, TO COMPLY WITH GASB 45 FUNDING, be introduced.

Vote: 4-0

2. Resolution Approving RC-39: Road Code Waiver Request

Rodgers Consulting submitted an application on behalf of BP Realty and Classic Community Corporation for the Watkins Mill Town Center, the subdivision which was approved via site plan SP-05-0013 on May 3, 2006. The waiver is requesting a modification to the existing road code waiver for the Center. The applicant is proposing to reduce the lane paving width of Lane 3, Part 2 from 20 feet to 16 feet to provide 20 foot driveways for the dwelling units on either side of the subject alley. It was noted that the modification must also be approved by the Planning Commission. Staff recommended that the above road code waiver be approved with the following condition:

The Department of Public Works, Parks Maintenance and Engineering and the City Fire Marshal will review the final design of the road code waiver requests and upon finding that the streets will operate safely with potential additional safety measures, will approve the final design of the road code waiver.

Motion was made by Council Member Marraffa, seconded by, Council Member Alster, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL APPROVING RC-39: ROAD CODE WAIVER REQUEST FOR LANE 3, PART 2, OF WATKINS MILL TOWN CENTER, SP-05-0013, REVISION TO RC-33 (Resolution No. R-96-07), be approved with the condition above.

Vote: 4-0

3. Resolution for Construction of a Storage Shed at the Public Works Facility

This resolution authorized the City Manager to enter into a contract for the above shed with Hopkins & Wayson, Inc., 601 Keith Lane, Owings, Maryland 20736, in the estimated amount of One Hundred and Forty-Eight Thousand Three Hundred Dollars (\$148,300) plus a construction contingency of Fifteen Thousand Dollars (\$15,000) for a total encumbrance of One Hundred and Sixty-Three Thousand Three Hundred Dollars (\$163,300); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Sesma, seconded by, Council Member Edens, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR CONSTRUCTION OF A STORAGE SHED AT THE PUBLIC WORKS FACILITY (Resolution No. R-97-07), be approved.

Vote: 4-0

4. Resolution Awarding Matching Grants

This resolution authorized the City Manager to award matching grants to the Amberfield HOA for landscaping ((\$5,000), Kentlands Condominiums III for landscaping (\$3,800), Fireside Condominiums for fencing (\$5,000), upon determining that the projects were completed as proposed, in the total amount of Thirteen Thousand Eight Hundred Dollars (\$13,800); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Alster, seconded by, Council Member Edens, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AWARDED MATCHING GRANTS TO AMBERFIELD

HOA, KENTLANDS CONDOMINIUMS III, AND FIRESIDE
CONDOMINIUMS (Resolution No. R-98-07), be approved.

Vote: 4-0

XIII. POLICY DISCUSSION

Resolution to Modify the Procedures for Registering to Vote in City Elections

Assistant City Manager Felton stated a public hearing was held on August 20, 2007. The record closed as of 5 p.m. on August 29, 2007, with no public comment submitted. The proposed charter amendment would eliminate the City's voter registry to reflect current practices whereby all City residents who participate in City Elections are registered with the Montgomery County Board of Elections.

Motion was made by Council Member Edens, seconded by, Council Member Sesma, that RESOLUTION OF THE MAYOR AND CITY COUNCIL AMENDING SECTION 27 OF THE CITY CHARTER TO MODIFY THE PROCEDURES FOR REGISTERING TO VOTE IN CITY ELECTIONS (Charter Amendment No. CA-2-07), be approved.

Vote: 4-0

XIV. FROM STAFF

- **Guidance on a Memorandum Dated September 6, 2007 Concerning the Proposed Waiver of Permit Fees for Renovations at Forest Oak Tower**

Assistant City Manager Felton sought guidance from the Mayor and City Council for the above waiver. The Mayor and City Council expressed support and directed staff to proceed.

- **City Attorney Borten**

Expressed thanks to the Mayor and City Council for the opportunity to serve the Gaithersburg community as City Attorney.

XV. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 9:23 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant